

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

KEITH TERRELL BUTLER,

Plaintiff,

vs.

No. 9:07-CV-00431
(FJS/DEP)

J. SMITH, R.N., Upstate Correctional
Facility et al.,
Defendants.

APPEARANCES:

OF COUNSEL

Keith Terrell Butler
Pro Se
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FREDERICK J. SCULLIN, JR., S.J.

DECISION AND ORDER

Currently before the Court is Magistrate Judge David E. Peebles' August 20, 2008 Report-Recommendation to which the parties have filed no objections. Having reviewed that Report and Recommendation and the entire file in this matter, the Court

hereby

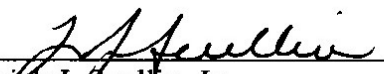
ORDERS that the Report-Recommendation of Magistrate Judge David E. Peebles filed August 20, 2008 is **ACCEPTED** in its entirety, for the reasons stated therein, and the Court further

ORDERS that **within thirty (30) days** from the filing of this Order plaintiff may file an amended complaint which shall supersede and replace in its entirety Plaintiff's original complaint, and the Court further

ORDERS that if plaintiff fails to comply fully with this Order, and does not file an amended complaint in this action within thirty (30) days from the filing of this Order, the Clerk of the Court shall enter judgment in favor of the defendants and dismiss this action without further Order of this Court.

IT IS SO ORDERED.

Dated: September 10, 2008
Syracuse, New York



Frederick J. Scullin, Jr.
Senior United States District Court Judge